

UNITED STATES DISTRICT COURT  
FOR WESTERN DISTRICT OF NEW YORK

DONALD ANSON

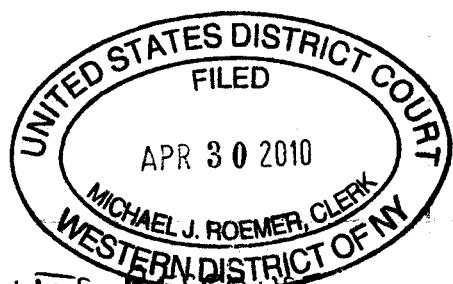
PLAINTIFF

v.

UNITED STATES OF AMERICA

DEFENDANTS

DOCKET # 07-CV-00035



REPLY TO DEFENDANTS RESPONSE  
TO MOTION FOR ORDER TO COMPEL  
DISCLOSURE AND DISCOVERY (DOCKET #71)

IN REPLY TO THE DEFENDANT'S 'RESPONSE' (DOC #73) TO THE PLAINTIFF'S MOTION REQUESTING THE COURT TO ISSUE AN ORDER TO COMPEL DISCOVERY, AND IMPOSE SANCTIONS, THE PLAINTIFF ASKS THE COURT TO CONSIDER THE FOLLOWING, IN MAKING IT'S DECISION ON THE MOTION (DOC #71).

1). THE DEFENDANTS STATE, IN THEIR 'RESPONSE', THAT THEY HAVE FORWARDED MY 'NOTICE TO PRODUCE' (DOC #64, 1/22/10) TO THE U.S. MARSHALS FOR THEIR RESPONSE. THEY DO NOT SAY WHEN THE NOTICE WAS FORWARDED. WAS IT DONE SHORTLY AFTER THE U.S. ATTORNEY'S OFFICE RECEIVED THE 'NOTICE', OR WAS IT AFTER THE MOTION ASKING THE COURT TO COM-

PEL DISCOVERY AND APPLY SANCTIONS THAT IT WAS DONE. (WHAT ABOUT THE ITEMS REQUESTED FROM THE BUFFALO FED. DET. FACILITY AND THE IMMIGRATION SERVICE? WILL THERE BE ANOTHER DELAY BECAUSE THE MARSHALS WON'T HAVE ACCESS TO THOSE?).

- 2). THE DEFENDANTS CLAIM IT WAS "A LENGTHY REQUEST" (DOC #73, P.1). HOWEVER, THE INFORMATION IS NOT THAT 'LENGTHY' AS A REVIEW OF THE 'NOTICE' (DOC # 64) WILL SHOW. IN FACT IT IS FAR, FAR LESS MATERIAL THAN THE DEFENDANT'S OWN REQUEST WAS FOR. (SEE DEF. NOTICE TO PRODUCE 1/11/10, AND PLAINTIFF'S OBJECTION DOC #66, 2/2/10).
- 3). THE PLAINTIFF'S 'NOTICE TO PRODUCE' LISTED WITH 'REASONABLE PARTICULARITY' (CIVIL R. OF PROC. 34 (b)(1)(A)) AND STATED THE RELEVANCY OF EACH ITEM REQUESTED, AND THE DEFENDANT'S RAISED NO TIMELY OBJECTION TO ANY OF THE REQUESTED MATERIAL.
- 4). THAT SOME OF THE REQUESTED ITEMS ARE THE SAME ONES THE COURT PREVIOUSLY ORDERED BE TURNED OVER BY "NO LATER THAN FEBRUARY 27, 2009" (DOC #39, 1/27/09) OVER A YEAR AGO. (THE DEFENDANTS, IN A LETTER DATED 3/12/09 TO THE COURT, ACKNOWLEDGED THEY VIOLATED THAT ORDER, AND FALSLY CLAIMED "NO SUCH DOCUMENTS EXIST".)
- 5). SEVERAL OF THE REQUESTED MATERIALS WERE ALREADY IN THE U.S. ATTORNEY'S POSSESSION AS OF THE 4/15/09, DEPOSITION. (SEE DEPOSITION PAGE 50, L.13 TO 25;

PAGE 55, L. 12 TO 14; PAGE 59, L. 11 TO 22). YET, DESPITE PROMISES, OVER A YEAR LATER, NOTHING HAS BEEN SENT.

6). PLAINTIFF HAS, IN THE PAST, POINTED OUT MULTIPLE ACTS OF 'BAD FAITH' ON THE DEFENDANT'S PART BUT THE COURT HAS IGNORED THEM IN THE PAST, SO PLAINTIFF WILL NOT REPEAT THEM BUT SIMPLY POINT TO THE 'RECORD' OF THIS CASE.

7). THAT THIS CASE HAS DRAGGED ON FOR NEARLY (5) FIVE YEARS, AND THE LONGER IT IS DELAYED THE HARDER IT IS TO OBTAIN EVIDENCE AND LOCATE WITNESSES.

8). LASTLY, THE FACT THAT OVER (3) THREE MONTHS HAS ELAPSED SINCE THE 'NOTICE TO PRODUCE', AND 3 1/2 YEARS SINCE SOME ITEMS WERE REQUESTED, YET NOT ONE IOTA OF THE REQUESTED MATERIAL HAS BEEN PRODUCED BY THE DEFENDANTS. NOT EVEN THOSE ITEMS THE U.S. ATTORNEY'S OFFICE CLAIMED TO HAVE IN ITS POSSESSION ALMOST A YEAR AGO.

THEREFORE THE PLAINTIFF ASKS THE COURT TO GRANT HIS MOTION REQUESTING A 'DEMAND TO PRODUCE', AS WELL AS IMPOSING ALL REQUESTED SANCTIONS, AND THOSE OTHER SANCTIONS THE COURT DEEMS REASONABLE AND JUST.

4/22/10

*Daniel J. Th*

CERTIFICATE OF SERVICE

REPLY

I certify that on APRIL 27<sup>th</sup>, 2010, I mailed a copy of this ~~brief~~ and all attachments via first class mail, to the following parties at the address(s) listed below:

CLERK OF THE COURT  
U.S. FEDERAL COURTHOUSE  
68 COURT STREET  
BUFFALO, N.Y. 14202

+

A.U.S.A. KEVIN ROBINSON  
U.S. ATTORNEY'S OFFICE  
138 DELAWARE AVE.  
BUFFALO, N.Y. 14202

PROOF OF SERVICE FOR INSTITUTIONALIZED OR  
INCARCERATED LITIGANTS

I certify that this document was given to prison officials on this 27<sup>th</sup> day of APRIL, 2010, for forwarding to the U.S. DISTRICT Court for the WESTERN DISTRICT OF NEW YORK. I certify under the penalty of perjury that the foregoing is true and correct. 28 U.S.C. §1746.

Dated this 27<sup>th</sup> day of APRIL, 2010.

  
(Signature)  
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